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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Eligibility, for the Specialized
Mobile Radio Services and
Radio Services in the 220-222 MHz
Land Mobile Band and Use of Radio
Dispatch Communications

) DOCKET FILE COPY ORIGINAL
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) GN Docket No. 94-90
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REPLY COMMENTS OF THE
NATIONAL TELEPHONE COOPERATIVE ASSOCIATION

In the Notice of Proposed Rule Making, FCC 94-202, released in the above proceeding on August 11, 1994, the Commission seeks comments on amendments that would eliminate rules which prohibit wireline telephone common carriers from holding commercial 220 MHz service and Specialized Mobile Radio ("SMR") licenses.¹ The Commission also proposes to amend its rules to permit all mobile service common carriers to provide dispatch service. NTCA supports adoption of the proposed amendments.

DISCUSSION

The National Telephone Cooperative Association ("NTCA") is a national association representing approximately 500 small and rural independent local exchanges carriers ("LECs") providing telecommunications services to interexchange carriers and subscribers throughout rural America. NTCA members have the willingness and ability to offer rural areas wireless services like SMR and commercial 220 MHz and are interested in providing their customers the mobile services they require.

¹ Existing rules are contained in 47 C.F.R. § 90.703(c) and 47 C.F.R. § 90.603(c).

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I. NTCA AGREES THAT THE WIRELINE RESTRICTION SHOULD BE REMOVED.

Previously the Commission sought comments to various petitions for waiver (Public Notice No. DA 94-329, Apr. 12, 1994). NTCA was one of the many parties that supported the waivers and argued that the wireline prohibition is no longer justified. NPRM at ¶ 10. The arguments NTCA made in support of the waivers are applicable here. There is no longer any rational basis for the prohibition in light of the 1993 amendments to Sections 3(n) and 332 of the Communications Act and the new regulatory regime for mobile services. As the Commission acknowledges in this NPRM, each of the premises upon which the restrictions were based no longer exists.

NTCA agrees with the comments of small rural telephone companies and others that filed comments in support of removal of the restrictions. Among the small companies supporting removal of the restrictions are United Telephone Mutual Aid Corp. ("United"), a 4,200 access line LEC, Polar Communications Mutual Aid Corporation, ("Polar")² a carrier with 8,500 access lines, and a group filing as the Rural Independents, three small LECS from Texas, Missouri and Pennsylvania. NTCA agrees with those parties position that repeal of the ban will promote

² In 1993, in its petition for rule making on the wireline restriction, Polar argued that the public interest would be served by removing the wireline restriction. It also said the reasons for the restrictions were moot. NPRM at ¶ 11. The Commission has incorporated Polar's request in this proceeding.

opportunities for additional entry of small entrepreneurs and promote the Commission's interest in providing additional opportunities for small business entry into the SMR service.³

NTCA also agrees with the Commission and those parties that support removal of the wireline ban because it is no longer necessary in light of industry and legislative changes.⁴ The telecommunications industry is no longer the monolith it was when the SMR ban was imposed in 1974. In today's world of multiple providers, wireline carrier participation in mobile services such as commercial 220 MHz and SMR will increase rather than impede competition. Congress has wisely given the Commission authority to repeal the ban. This was done in recognition of the fact that the new regulatory structure would alter traditional distinctions that formed the underpinning of the ban. The new structure reclassifies SMR and commercial 200 MHz licensees as commercial mobile radio service providers on the basis of "interconnected" service instead of a distinction between common and private carriage. In addition, as the Commission observes, the new regulatory regime addresses discrimination concerns. NPRM at ¶ 19. New 47 C.F.R. § 20.11 requires that local exchange carriers

³ See Comments of Polar at 2-10; United at 1-3; and Rural Independents at 2-5.

⁴ See, e.g., Comments of Sprint Corporation; GTE Service Corporation; Bell Atlantic Mobile Systems, Inc.; Pacific Bell; Nevada Bell and Pacific Bell Mobile Services; BellSouth Corporation; Rochester Tel. Cellular Holding Corporation; and NYNEX Companies.

provide interconnection reasonably requested by mobile service licensees such as SMRs and contains procedures for the filing of complaints under Section 208 of the Act.

II. NTCA AGREES THAT THE DISPATCH PROHIBITION SHOULD BE ELIMINATED.

Polar points out that there is a substantial unmet need on the part of farmers and ranchers for reasonably priced dispatch services. It also states that the dispatch prohibition no longer makes sense in light of the regulatory symmetry mandated by the Omnibus Budget Act of 1993.⁵ NTCA agrees with Polar and others that urge removal off the dispatch ban. It also agrees with the commission's conclusion that removal of the ban will enhance competition in the dispatch market and provide consumers with expanded choice and lower prices. NPRM at ¶ 29.

III. NTCA AGREES THAT STRUCTURAL AND ACCOUNTING STANDARDS ARE NOT REQUIRED.

Polar points out that the imposition of structural separation requirements upon rural telephone companies entering the SMR industry would entail administrative costs and burdens that would far outweigh any potential benefits.⁶ NTCA agrees with Polar's position. It also believes that the imposition of costly structural separation requirements would defeat the Commission's dual goals of promoting competition and encouraging small businesses to enter the SMR business.

⁵ Polar Comments at 11.

⁶ Id. at 10-11.

IV. CONCLUSION

In light of the above, NTCA urges the Commission to adopt the proposed amendments (1) removing restrictions against telephone common carriers provision of SMR and commercial 220 MHz service; and (2) eliminating the restriction against mobile common carrier provision of dispatch service. NTCA also urges the Commission not to impose structural separations requirements on wireline carriers.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Gail C. Malloy, certify that a copy of the foregoing Reply Comments of the National Telephone Cooperative Association in GN Docket 94-90 was served on this 20th day of October 1994, by first-class, U.S. Mail, postage prepaid, to the following persons on the attached list:


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